

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**STEPHEN ANTHONY GONZALES,**

**Plaintiff,**

**v.**

**CASE NO. 19-3099-SAC**

**LEIGH HOOD, et al.,**

**Defendants.**

**ORDER TO SHOW CAUSE**

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On June 17, 2019, the Court entered an Order (Doc. 3) granting Plaintiff's motion for leave to proceed *in forma pauperis*, and assessing an initial partial filing fee of \$19.00, calculated under 28 U.S.C. § 1915(b)(1). The Order granted Plaintiff fourteen days from receipt of the Order to submit the fee or to file an objection to the Order. On July 10, 2019, the Court entered an Order to Show Cause (Doc. 4), granting Plaintiff until July 26, 2019, in which to show good cause why this action should not be dismissed without prejudice pursuant to Rule 41(b) for failure to comply with court orders. On July 25, 2019, Plaintiff filed a Response (Doc. 7) indicating that he believed his attorney was going to withdraw this case and Plaintiff thought that had been done. Plaintiff indicated that he had contacted family and they would be sending money to pay his initial partial filing fee. To date, Plaintiff has not submitted the initial partial filing fee and his case has not been dismissed by counsel.

Rule 41(b) of the Federal Rules of Civil Procedure "authorizes a district court, upon a defendant's motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or 'a court order.'" *Young v. U.S.*, 316 F.

App'x 764, 771 (10th Cir. 2009) (citing Fed. R. Civ. P. 41(b)). “This rule has been interpreted as permitting district courts to dismiss actions *sua sponte* when one of these conditions is met.” *Id.* (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). “In addition, it is well established in this circuit that a district court is not obligated to follow any particular procedures when dismissing an action *without prejudice* under Rule 41(b).” *Young*, 316 F. App'x at 771–72 (citations omitted).

Plaintiff has failed to submit the initial partial filing fee within the allowed time. Therefore, Plaintiff should show good cause why this case should not be dismissed without prejudice pursuant to Rule 41(b).

**IT IS THEREFORE ORDERED THAT** Plaintiff is granted until **December 23, 2019**, in which to show good cause, in writing, to the Honorable Sam A. Crow, United States District Judge, why this action should not be dismissed without prejudice pursuant to Rule 41(b) for failure to comply with court orders.

**IT IS SO ORDERED.**

**Dated December 3, 2019, in Topeka, Kansas.**

s/ Sam A. Crow  
**Sam A. Crow**  
**U.S. Senior District Judge**